

Berghuis (Warden) v. Thompkins

--- U.S. --- (2010)

Decided June 1, 2010

FACTS: A shooting occurred in Southfield (Michigan) on January 10, 2000. Morris died from multiple gunshot wounds; France survived and later testified. Thompkins, the suspect, fled, but was apprehended a year later in Ohio.

Southfield officers traveled to Ohio to question Thompkins, who was “awaiting transfer to Michigan.” At the beginning of the interrogation, Officer Helgert provided Thompkins with his Miranda¹ rights in writing. The officer had Thompkins read the last provision of the warnings out loud to ensure that Thompkins could read and presumably understand English. Helgert read the other four warnings to Thompkins and he signed the form. There was conflict in the record as to whether Thompkins was asked, or verbally confirmed, that he understood his rights.

During the ensuing 3 hour interrogation, “at no point ... did Thompkins say that he wanted to remain silent, that he did not want to talk with the police, or that he wanted an attorney.” He was “largely silent,” but did occasionally give a limited verbal response, such as yes, no or a comment such as “I don’t know.” He also refused a peppermint and mentioned that the chair he was sitting on was hard. Toward the end of the interrogation, one of the officers asked Thompkins if he believed in God and Thompkins’s eyes “welled up with tears.” Thompkins agreed he prayed to God. Officer Helgert then asked him, “Do you pray to God to forgive you for shooting that boy down?” Thompkins responded “yes” and looked away. He refused to give a written confession and the interrogation ended some 15 minutes later.

Thompkins was charged with murder, assault and related firearms offenses. He moved for suppression of his statements, arguing that he had invoked his Fifth Amendment rights and that interrogation should have then ended.² The trial court denied the motion.

Thompkins was convicted and appealed. The Michigan appellate courts denied his argument that the statements should have been suppressed, holding that he had “not invoked his right to remain silent.” Thompkins filed a petition for habeas corpus in the U.S. District Court, which also rejected his claim, stating that the state court’s decision was not “contrary to, or involved an unreasonable application of clearly established federal law.”³ “The District Court reasoned that Thompkins did not invoke his right to remain silent and was not coerced into making statements during the interrogation.”

Thompkins appealed to the U.S. Court of Appeals for the Sixth Circuit, which reversed. The Sixth Circuit “acknowledged that a waiver of the right to remain silent need not be express, as it can be ‘inferred from the actions and words of the person interrogated.’”⁴ However, it’s recitation of the facts indicated that it believed that “Thompkins was silent for two hours and forty-five minutes” and that silence offered a “clear and unequivocal message to the officers: Thompkins did not wish to

¹ Miranda v. Arizona, 384 U.S. 436 (1966).

² Michigan v. Mosley, 423 U.S. 96 (1975).

³ 28 U.S.C. §2254(d)(1).

⁴ North Carolina v. Butler, 441 U.S. 369 (1979).

waive his rights.” (The Court also ruled in his favor on an unrelated assistance-of-counsel issue.) The Warden (as the respondent in a habeas petition) requested certiorari and the U.S. Supreme Court granted review.

ISSUE: Must a subject unambiguously and unequivocally invoke the right to silence?

HOLDING: Yes

DISCUSSION: The Court reviewed the history of the Miranda ruling and noted that all of the parties conceded “that the warning given in this case was in full compliance with these requirements.” Instead, the dispute in this case “centers on the response – or nonresponse – from the suspect” following the warnings being given. Thompkins argued that he remained silent “for a sufficient period of time so the interrogation should have ‘ceas[d]’ before he made his inculpatory statement.”⁵ However, the Court noted, in Davis v. U.S., it had “held that a suspect must do so ‘unambiguously.’”⁶

The Court continued:

The court has not yet stated whether an invocation of the right to remain silent can be ambiguous or equivocal, but there is no principled reason to adopt different standards for determining when an accused has invoked the Miranda right to remain silent and the Miranda right to counsel at issue in Davis.

Further, it ruled that “there is good reason to require an accused who wants to invoke his or her right to remain silent to do so unambiguously.” Such a requirement avoids forcing law enforcement officers “to make difficult decisions about an accused’s unclear intent and face the consequences of suppression ‘if they guess wrong.’”⁷

The Court then considered whether, in fact, Thompkins waived his right to remain silent.

The Court continued:

The waiver inquiry “has two distinct dimensions”: waiver must be “voluntary in the sense that it was the produce of a free and deliberate choice rather than intimidation, coercion, or deception,” and “made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.”⁸

Decisions since Miranda demonstrate “that waivers can be established even absent formal or express statements of waiver that would be expected in, say, a judicial hearing to determine if a guilty plea has been properly entered.” The prosecution, as such, “does not need to show that a waiver of Miranda rights was express.” Instead, an “implicit waiver” is “sufficient to admit a

⁵ Mosley, *supra*.

⁶ 512 U.S. 452 (1994).

⁷ See Moran v. Burbine, 475 U.S. 412 (1986).

⁸ *Id.*

suspect's statement into evidence.”⁹ It is to the prosecution to make an adequate showing that the accused understood Miranda rights, as given. Once that is done, however, “an accused's uncoerced statement establishes an implied waiver of the right to remain silent.”

Further:

Although Miranda imposes on the police a rule that is both formalistic and practical when it prevents them from interrogating suspects without first providing them with a Miranda warning, it does not impose a formalistic waiver procedure that a suspect must follow to relinquish those rights.

Miranda rights can be waived through more informal means than a “typical waiver on the record,” which generally requires a verbal invocation. The Court found no “contention” on the record that Thompkins did not understand his rights, but instead, found “more than enough evidence in the record” that he did. His response to the officer's final question was a “course of conduct indicating waiver” of the right to remain silent – he could have remained silent or invoked his Miranda rights at that time, or any time earlier, ending the interrogation. The fact that would have been three hours after the warning was given was immaterial and “police are not required to rewarn suspects from time to time.” This is further confirmed in that he gave “sporadic answers to questions throughout the interrogation.” The Court found no evidence of coercion or threat, as neither, the length of time nor the conditions of the interrogation were not such as would put him in physical or mental distress. Appealing to his religious beliefs (moral and psychological pressures) did not make the interrogation improper.¹⁰

Thompkins also contended that the police could not question him until they obtained a waiver, but again, the Court noted that Butler foreclosed this line of argument.

The Court stated:

Interrogation provides the suspect with additional information that can put his or her decision to waive, or not to invoke, into perspective. As questioning commences and then continues, the suspect has the opportunity to consider the choices he or she faces and to make a more informed decision, either to insist on silence or to cooperate. When the suspect knows that Miranda rights can be invoked at any time, he or she has the opportunity to reassess his or her immediate and long-term interests. Cooperation with the police may result in more favorable treatment for the suspect; the apprehension of accomplices; the prevention of continuing injury and fear; beginning steps towards relief or solace for the victims; and the beginning of the suspect's own return to the law and the social order it seeks to protect.

The Court affirmed that in order for a statement (under interrogation) to be admissible, the accused must have been properly given, and understood, the Miranda warnings. The Court would then

⁹ Butler, *supra*.

¹⁰ Oregon v. Elstad, 470 U.S. 298 (1985).

look for an express or implied waiver but the Court agreed that officers need not obtain a waiver before commencing an interrogation.

The Court agreed that the statements were admissible and reversed the decision of the Sixth Circuit on the issue. The Court also ruled on an unrelated question with respect to jury instructions, and found no prejudice to Thompson. The Court remanded the case to the lower court to deny the habeas petition.

FULL TEXT OF OPINION: <http://www.supremecourt.gov/opinions/09pdf/08-1470.pdf>